MELINDA L. HAAG (CABN 132612)
United States Attorney

MIRANDA KANE (CABN 150630)
Chief, Criminal Division

JOSEPH FAZIOLI (ILBN 6273413)
Assistant United States Attorney

150 Almaden Boulevard, Suite 900
San Jose, California 95113
Telephone: (408) 535-5595
Facsimile: (408) 535-5066
joseph.fazioli@usdoj.gov

Attorneys for the United States

FILED

JUL 2 4 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. JASON KEITH SMITH, Defendant.	No. CR 5:13-MJ-70031 HRL STIPULATION AND ~~[PROPOSED]~~ ORDER CONTINUING APPEARANCE DATE AND EXCLUDING TIME FROM THE SPEEDY TRIAL ACT CALCULATION (18 U.S.C. § 3161(h)(8)(A))

This matter is scheduled before the Court for an preliminary hearing or arraignment on June 25, 2013. On January 14, 2013, this Court issued a criminal complaint against the defendant related to a violation of 18 U.S.C. 875(c) - Interstate Communications of a Threat. The defendant, who resides in the Eastern District of Michigan, was arrested and made an initial appearance on January 22, 2013 in Detroit before United States Eastern District of Michigan Magistrate Judge Laurie J. Michelson. The defendant is currently represented by Northern District of California CJA Panel Counsel Carleen Arlidge and Eastern District of Michigan Assistant Federal Public Defenders Penny R. Beardslee and Loren E. Khogali. On January 23, 2013, Judge Michelson ordered the defendant released pursuant to conditions, ordered the defendant be transferred to the Northern District of California for further proceedings, excluded time, and ordered the defendant to appear in the Northern District of California on March 14, 2013 at 9 a.m. That initial appearance date was subsequently continued via the parties stipulation to July 25, 2013.

The United States and the defendant now jointly request a continuance until September 19, 2013 in order to afford defense counsel additional time to effectively prepare and also to allow the parties a further opportunity to discuss a potential pre-indictment resolution of the mattter. The parties agree, and the Court finds and holds, as follows:

1. The preliminary hearing or arraignment is continued to September 19, 2013.

2. Time should be excluded under Rule 5.1 from July 25, 2013 to September 19, 2013 in order to allow defense counsel additional time to effectively prepare and also to allow the parties an opportunity to discuss a potential pre-indictment resolution of the mattter. The parties agree that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

3. The time between July 25, 2013 to September 19, 2013 is excluded under the Speedy Trial Act. The parties agree that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Finally, the parties agree that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18 U.S.C. §

//

//

//

//

//

//

//

//

3161(h)(8)(A).

STIPULATED:

DATED: 7/23/13

/s/
CARLEEN ARLIDGE
PENNY R. BEARDSLEE
LOREN E. KHOGALI
Counsel for Defendant Smith

DATED: 7/23/13

/s/
JOSEPH FAZIOLI
Assistant United States Attorney

IT IS SO ORDERED.

DATED: 7/24/13

HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE